

REMARKS

In response to the Office Action mailed on April 6, 2006, Applicants respectfully requests reconsideration. Claims 1, 3-15, 17-26, *28-39 * are now pending in this Application. Claims 1, 15 and 26 are independent claims and the remaining claims are dependent claims. In this Amendment, claims 1, 15 and 26 have been amended and claims 40-42 have been cancelled and claims 43-45 have been added. A version of the claims containing markings to show the changes made is included hereinabove. Applicants believe that the claims as presented are in condition for allowance. A notice to this affect is respectfully requested.

Claims 1, 3-15, 17-26, and 28-42 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,845,352 to Wang et al. (hereinafter Wang) in view of U.S. Patent Publication No. 2002/0152305 to Jackson et al. (hereinafter Jackson). Wang recites the use of a Finite State Machine (FSM) as part of a simulation engine. At column 5, lines 5-15 Wang states that the emulation Manager preferably contains a finite state machine (FSM) that maintains a status of the emulation. As is known to one of reasonable skill in the art, a network processor is different from a FSM Jackson discloses a network processor for performing resource utilization analysis. Jackson recites a network processor, but fails to disclose or suggest wherein the network processor is used to perform as a network emulator, a network profile generator, a network profile capture tool, a packet generation tool, an application traffic generation tool, a real-time packet analysis tool, and a network packet capture and analysis tool.

In contrast to Wang and Jackson, claim 1 recites the use of a network processor capable of performing packet processing, cell processing, look-up table processing, and queue management within a network switch or router and further that the network processor is used to provide at least one function, wherein said at least one function is selected from the group consisting of a network emulator, a network profile generator, a network profile capture tool, a packet generation tool, an application traffic generation tool, a real-time packet analysis tool, and a network packet capture and analysis tool.

It is well established in patent law that the test of obviousness is not whether the prior art can be modified to produce the claimed invention, since under a such a test all inventions would be obvious. Panduit Corp. V. Dennison Manufacturing Co. 810 F.2d 1561, 1574-75 (Fed. Cir. 1987). There is simply no reason to modify Wang by replacing the FSM of Wang with a network processor absent the hindsight afforded by the claimed invention. "There must be a reason or suggestion in the art ... other than the knowledge of learned from the applicant's disclosure". *In re Dow Chemical Co.*, 5 U.S.P.Q. 2d 1529, 1532 (Fed. Cir. 1988). Since Wang is silent regarding use of a network processor as part of a test system, while Jackson discloses a network processor, but not for testing network environments, the Examiner is respectfully requested to withdraw the rejection over Wang and Jackson.

Further, applicants submit that the combination of Wang and Jackson is improper. It is well established that in order to combine references there must be some "suggestion of desirability of the combination". In re Noznik, Tatter and Oberhauf, USPQ 43 (CCPA 1973). Further still, Wang and Jackson are in different class/subclass designations. Wang is listed in class/subclass G06F 9/45 and Jackson in class/subclass G06F 15/173. The Patent Office itself has designated the references in different class/subclasses, further indicating that the references are different and should not be combined. For all the reasons stated above, the combination of Wang and Jackson is improper and the rejection should be removed.

Claims 15 and 26 have been amended in a similar manner as claim 1, and are believed allowable for the same reasons as claim 1. Claims 40-42 have been canceled. Claims 3-14, 17-25 and 28-39 depend from claims 1, 15 or 26 and are believed allowable as they depend from a base claim that is believed allowable.

Claims 43-45 have been added. Support for these claim scan be found in the specification at page 16, lines 25-31. Applicants submit that no new matter has been added by the addition of these claims.

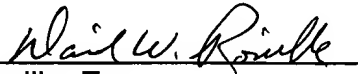
In view of the above, claims 1, 3-15, 17-26, 28-39 and 43-45 are believed allowable, and reconsideration and allowance thereof is respectfully requested.

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Applicants hereby petitions for any extension of time which is required to maintain the pendency of this case. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 50-3735.

If the enclosed papers or fees are considered incomplete, the Patent Office is respectfully requested to contact the undersigned collect at (508) 616-9660, in Westborough, Massachusetts.

Respectfully submitted,



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